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VIA ECF

Hon. A. Kathleen Tomlinson
United States Magistrate Judge
United States District Court
Eastern District of New York
100 Federal Plaza
P.O. Box 9014
Central Islip, NY 11722-9014

Re: *FragranceNet.com, Inc. v. FragranceX.com, Inc.*, CV-06-2225

Dear Judge Tomlinson:

We represent plaintiff FragranceNet.com, Inc. and submit this letter to request a modification of the Case Management and Scheduling Order (the "Scheduling Order"). The Scheduling Order currently sets Thursday, September 6, 2007, as the deadline for joinder of additional parties and amendment of pleadings. FragranceNet, however, has not yet had adequate discovery and therefore has not been able to ascertain the identities of John Does 1-20.

In accordance with the Scheduling Order, the parties exchanged written discovery requests on July 11, 2007. FragranceNet's requests for documents and interrogatories sought information, documents and materials that would assist it in determining the identities of the John Does. Defendant's responses, however, were deficient in a number of respects, including its failure or refusal to identify any other persons that have had possession of FragranceNet's copyrighted photographs. FragranceNet has asked defendant's counsel to meet and confer to discuss such deficiencies in an effort to resolve or narrow the issues and thereby avoid, or at least limit, the need for involvement by the Court. FragranceNet also is preparing deposition notices for persons identified in defendant's interrogatory responses in an effort to determine who the John Does are.

As a result of FragranceNet's inability to obtain adequate discovery to date, however, FragranceNet does not believe that it will be in a position to identify the John Does by September 6, 2007.

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Plaintiff has conferred with defendant's counsel but defendant has not taken a position on our request. Accordingly, we respectfully request that the deadline for joinder of additional parties and amendment of pleadings be extended for sixty days, to and including November 5, 2007.

Respectfully submitted,

Robert L. Sherman

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of PAUL, HASTINGS, JANOFSKY & WALKER LLP
RLS/lr

cc: David Rabinowitz, Esq. (Via Fax: 212.554.7700)
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